

REFERENCE TITLE: council on efficient government

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1466

Introduced by
Senators Gorman: Harper

AN ACT

AMENDING TITLE 41, CHAPTER 25, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3;
AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-3019.01; RELATING TO THE COUNCIL ON EFFICIENT GOVERNMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 25, Arizona Revised Statutes, is amended
3 by adding article 3, to read:

4 ARTICLE 3. COUNCIL ON EFFICIENT GOVERNMENT

5 41-2781. Council on efficient government; members; terms;
6 vacancies

7 A. THE COUNCIL ON EFFICIENT GOVERNMENT IS ESTABLISHED CONSISTING OF
8 THE FOLLOWING MEMBERS:

9 1. THE CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF A STATE AGENCY WHO
10 IS APPOINTED BY THE GOVERNOR.

11 2. TWO MEMBERS WHO ARE ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE
12 APPOINTED BY THE GOVERNOR.

13 3. TWO MEMBERS WHO ARE ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE
14 APPOINTED BY THE PRESIDENT OF THE SENATE.

15 4. TWO MEMBERS WHO ARE ENGAGED IN PRIVATE ENTERPRISE AND WHO ARE
16 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

17 B. THE TERMS OF APPOINTMENT TO THE COUNCIL ARE FOR TWO YEARS UNLESS
18 THE CHIEF EXECUTIVE OR ADMINISTRATIVE OFFICER OF A STATE AGENCY CEASES TO
19 HOLD OFFICE. THE GOVERNOR SHALL APPOINT A REPLACEMENT MEMBER FOR THE
20 REMAINDER OF THE UNEXPIRED TERM.

21 C. A MEMBER OF THE COUNCIL WHO IS ENGAGED IN PRIVATE ENTERPRISE IS NOT
22 ELIGIBLE TO RECEIVE COMPENSATION BUT IS ELIGIBLE FOR REIMBURSEMENT OF
23 EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

24 D. A MEMBER OF THE COUNCIL MAY NOT PARTICIPATE IN A COUNCIL REVIEW OF
25 A BUSINESS CASE TO OUTSOURCE IF THE STATE AGENCY IS CONDUCTING THE PROPOSED
26 OUTSOURCING OR, IN THE CASE OF A MEMBER ENGAGED IN PRIVATE ENTERPRISE, IF THE
27 MEMBER HAS A BUSINESS RELATIONSHIP WITH AN ENTITY THAT IS INVOLVED OR
28 POTENTIALLY COULD BE INVOLVED IN THE PROPOSED OUTSOURCING.

29 E. A MEMBER OF THE COUNCIL WHO IS ENGAGED IN PRIVATE ENTERPRISE MAY
30 NOT DELEGATE THE MEMBERSHIP TO A DESIGNEE.

31 F. A QUORUM SHALL CONSIST OF AT LEAST THREE MEMBERS OF THE COUNCIL.

32 G. ANY VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER AS
33 THE ORIGINAL APPOINTMENT, AND ANY MEMBER APPOINTED TO FILL A VACANCY
34 OCCURRING FOR A REASON OTHER THAN THE EXPIRATION OF A TERM SERVES ONLY FOR
35 THE UNEXPIRED TERM OF THE MEMBER'S PREDECESSOR.

36 H. THE COUNCIL SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS.

37 41-2782. Powers and duties of the council; annual report

38 A. THE COUNCIL SHALL:

39 1. REVIEW WHETHER OR NOT A GOOD OR SERVICE PROVIDED BY A STATE AGENCY
40 COULD BE PRIVATIZED TO PROVIDE THE SAME TYPE AND QUALITY OF GOOD OR SERVICE
41 THAT WOULD RESULT IN COST SAVINGS OR BEST VALUE. THE COUNCIL MAY HOLD PUBLIC
42 HEARINGS AS PART OF ITS EVALUATION PROCESS AND SHALL REPORT ITS
43 RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER
44 OF THE HOUSE OF REPRESENTATIVES.

45 2. REVIEW PRIVATIZATION OF A GOOD OR SERVICE AT THE REQUEST OF A STATE
46 AGENCY OR A PRIVATE ENTERPRISE.

1 3. REVIEW ISSUES CONCERNING AGENCY COMPETITION WITH ONE OR MORE
2 PRIVATE ENTERPRISES TO DETERMINE WAYS TO ELIMINATE ANY UNFAIR COMPETITION
3 WITH A PRIVATE ENTERPRISE.

4 4. RECOMMEND PRIVATIZATION TO A STATE AGENCY IF A PROPOSED
5 PRIVATIZATION IS DEMONSTRATED TO PROVIDE A MORE COST EFFICIENT OR MORE
6 EFFECTIVE MANNER OF PROVIDING A GOOD OR SERVICE.

7 5. COMPLY WITH SECTIONS 41-2783 AND 42-2784.

8 6. EMPLOY A STANDARD PROCESS FOR REVIEWING BUSINESS CASES TO
9 OUTSOURCE.

10 7. REVIEW AND EVALUATE BUSINESS CASES TO OUTSOURCE AS REQUESTED BY THE
11 GOVERNOR OR THE STATE AGENCY HEAD WHOSE AGENCY IS PROPOSING TO OUTSOURCE.

12 8. NO LATER THAN THIRTY DAYS BEFORE A STATE AGENCY'S ISSUANCE OF A
13 SOLICITATION OF TEN MILLION DOLLARS OR MORE, PROVIDE TO THE STATE AGENCY
14 CONDUCTING THE PROCUREMENT, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
15 SPEAKER OF THE HOUSE OF REPRESENTATIVES AN ADVISORY REPORT FOR EACH BUSINESS
16 CASE REVIEWED AND EVALUATED BY THE COUNCIL. THE REPORT MUST CONTAIN ALL
17 VERSIONS OF THE BUSINESS CASE, AN EVALUATION OF THE BUSINESS CASE, ANY
18 RELEVANT RECOMMENDATIONS AND SUFFICIENT INFORMATION TO ASSIST THE STATE
19 AGENCY PROPOSING TO OUTSOURCE IN DETERMINING WHETHER THE BUSINESS CASE TO
20 OUTSOURCE SHOULD BE INCLUDED WITH THE LEGISLATIVE BUDGET REQUEST.

21 9. RECOMMEND AND IMPLEMENT STANDARD PROCESSES FOR STATE AGENCY AND
22 COUNCIL REVIEW AND EVALUATE STATE AGENCY BUSINESS CASES TO OUTSOURCE,
23 INCLUDING TEMPLATES FOR USE BY STATE AGENCIES IN SUBMITTING BUSINESS CASES TO
24 THE COUNCIL.

25 10. RECOMMEND STANDARDS, PROCESSES AND GUIDELINES FOR USE BY STATE
26 AGENCIES IN DEVELOPING BUSINESS CASES TO OUTSOURCE.

27 11. INCORPORATE ANY LESSONS LEARNED FROM OUTSOURCING SERVICES AND
28 ACTIVITIES INTO COUNCIL STANDARDS, PROCEDURES AND GUIDELINES, AS APPROPRIATE,
29 AND IDENTIFY AND DISSEMINATE TO AGENCIES INFORMATION REGARDING BEST PRACTICES
30 IN OUTSOURCING EFFORTS.

31 12. DEVELOP GUIDELINES FOR ASSISTING STATE EMPLOYEES WHOSE JOBS ARE
32 ELIMINATED AS A RESULT OF OUTSOURCING.

33 13. RECEIVE COMPLAINTS OF VIOLATIONS OF THIS ARTICLE.

34 14. TRANSMIT COMPLAINTS RECEIVED UNDER THIS SECTION TO THE STATE AGENCY
35 ALLEGED TO BE IN VIOLATION.

36 15. HOLD PUBLIC HEARINGS ON COMPLAINTS AND DETERMINE WHETHER THE AGENCY
37 IS IN VIOLATION OF THIS ARTICLE.

38 16. ISSUE A WRITTEN REPORT OF ITS FINDINGS TO THE COMPLAINANT WITHIN
39 NINETY DAYS AFTER RECEIVING THE STATE AGENCY'S RESPONSE.

40 17. TRANSMIT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
41 SPEAKER OF THE HOUSE OF REPRESENTATIVES A COMPLETE REPORT OF EACH MEETING,
42 INCLUDING RECOMMENDATIONS TO CORRECT VIOLATIONS OF PROHIBITIONS ON
43 COMPETITION WITH PRIVATE ENTERPRISE AND FINDINGS ON NECESSARY EXCEPTIONS TO
44 THE PROHIBITIONS.

45 18. SOLICIT PETITIONS OF INTEREST FROM PRIVATE SECTOR SERVICE PROVIDERS
46 AS THE COUNCIL CONSIDERS APPROPRIATE. THE COUNCIL MAY EVALUATE AND REVIEW

1 THE PETITIONS AND MAY HOLD PUBLIC HEARINGS AS PART OF THE EVALUATION PROCESS.
 2 THE COUNCIL MAY RECOMMEND SOME OR ALL OF THE PETITIONS TO THE GOVERNOR'S
 3 OFFICE OF STRATEGIC PLANNING AND BUDGETING FOR FURTHER REVIEW PURSUANT TO
 4 SECTION 41-2773. A PERSON DOES NOT HAVE A CAUSE OF ACTION BASED ON THE
 5 FAILURE OF THE COUNCIL TO CONSIDER A PETITION OF INTEREST OR MAKE A
 6 RECOMMENDATION.

7 B. THE COUNCIL MAY EVALUATE AND REVIEW ALL STATE AGENCY EXEMPTIONS AND
 8 EXEMPTIONS TO THE RESTRICTIONS ON COMPETITION WITH PRIVATE ENTERPRISE IN THIS
 9 ARTICLE AND MAY DETERMINE THAT ANY FUNCTION OR FUNCTIONS OF STATE AGENCY ARE
 10 IN VIOLATION OF THIS ARTICLE. THE COUNCIL SHALL REPORT ITS FINDINGS AND
 11 RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER
 12 OF THE HOUSE OF REPRESENTATIVES.

13 C. THE COUNCIL SHALL PREPARE AN ANNUAL REPORT ON:

14 1. RECOMMENDATIONS ON INNOVATIVE METHODS OF DELIVERING GOVERNMENT
 15 SERVICES THAT WOULD IMPROVE THE EFFICIENCY, EFFECTIVENESS OR COMPETITION IN
 16 THE DELIVERY OF GOVERNMENT SERVICES, INCLUDING ENTERPRISEWIDE PROPOSALS.

17 2. OUTSOURCING EFFORTS OF EACH STATE AGENCY, INCLUDING THE NUMBER OF
 18 OUTSOURCING BUSINESS CASES AND SOLICITATIONS, THE NUMBER AND DOLLAR VALUE OF
 19 OUTSOURCING CONTRACTS, DESCRIPTIONS OF PERFORMANCE RESULTS AS APPLICABLE, ANY
 20 CONTRACT VIOLATIONS OR PROJECT SLIPPAGES AND THE STATUS OF EXTENSIONS,
 21 RENEWALS AND AMENDMENTS OF OUTSOURCING CONTRACTS.

22 3. INFORMATION ABOUT THE COUNCIL'S ACTIVITIES.

23 4. THE STATUS OF THE INVENTORY CREATED UNDER SECTION 41-2783.

24 D. THE COUNCIL SHALL SUBMIT THE ANNUAL REPORT PRESCRIBED BY SUBSECTION
 25 C OF THIS SECTION TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
 26 SPEAKER OF THE HOUSE OF REPRESENTATIVES NO LATER THAN JANUARY 15 IMMEDIATELY
 27 FOLLOWING THE CALENDAR YEAR FOR WHICH THE REPORT IS MADE. THE COUNCIL SHALL
 28 PROVIDE AN ORAL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE
 29 GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING WHEN THE LEGISLATURE IS
 30 NOT IN SESSION.

31 E. THE AUDITOR GENERAL SHALL EMPLOY AN ADEQUATE NUMBER OF STAFF WHO
 32 COLLECTIVELY POSSESS SIGNIFICANT EXPERTISE AND EXPERIENCE AS REQUIRED TO
 33 CARRY OUT THE RESPONSIBILITIES OF THIS ARTICLE.

34 F. EACH STATE AGENCY SHALL SUBMIT TO THE COUNCIL ALL INFORMATION,
 35 DOCUMENTS AND OTHER MATERIALS REQUIRED BY THE COUNCIL PURSUANT TO THIS
 36 ARTICLE.

37 G. AT THE REQUEST OF THE COUNCIL AND ON APPROVAL OF THE JOINT
 38 LEGISLATIVE AUDIT COMMITTEE, THE AUDITOR GENERAL SHALL PROVIDE PERFORMANCE
 39 AUDIT AND OTHER REQUIRED INFORMATION RELATING TO STATE AGENCY BUDGETS AND
 40 FUNCTIONS. THE AUDITOR GENERAL MAY ASSIST IN THE DEVELOPMENT AND REVIEW OF
 41 THE AGENCY INVENTORY OF COMMERCIAL ACTIVITIES PRESCRIBED IN SECTION 41-2783.

42 H. IN ADDITION TO FILING A COPY OF RECOMMENDATIONS FOR PRIVATIZATION
 43 WITH AN AGENCY HEAD, THE COUNCIL SHALL FILE A COPY OF ITS RECOMMENDATIONS FOR
 44 PRIVATIZATION WITH THE GOVERNOR'S OFFICE, THE JOINT LEGISLATIVE BUDGET
 45 COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING FOR
 46 SUBMISSION TO THE RELEVANT LEGISLATIVE APPROPRIATION SUBCOMMITTEE.

1 I. THE COUNCIL MAY APPOINT ADVISORY GROUPS TO CONDUCT STUDIES,
2 RESEARCH OR ANALYSES AND MAKE REPORTS AND RECOMMENDATIONS WITH RESPECT TO A
3 MATTER WITHIN THE JURISDICTION OF THE COUNCIL. AT LEAST ONE MEMBER OF THE
4 COUNCIL SHALL SERVE ON EACH ADVISORY GROUP.

5 J. SUBJECT TO SECTION 41-2784, SUBSECTION B, THIS ARTICLE DOES NOT
6 PRECLUDE A STATE AGENCY FROM PRIVATIZING THE PROVISION OF A GOOD OR SERVICE
7 INDEPENDENT OF THE COUNCIL.

8 K. EXCEPT AS PROVIDED BY SECTION 41-2752, SUBSECTION D, ANY AGGRIEVED
9 PERSON MAY ELECT TO DIRECTLY SEEK JUDICIAL RELIEF, INCLUDING RELIEF UNDER
10 TITLE 12, CHAPTER 11, ARTICLE 2.

11 41-2783. Commercial activities inventory and review

12 A. ON OR BEFORE JUNE 30, 2010, THE COUNCIL SHALL CREATE AN INVENTORY
13 OF ACTIVITIES OF STATE AGENCIES TO CLASSIFY WHETHER EACH ACTIVITY OR ELEMENTS
14 OF THE ACTIVITY ARE:

15 1. A COMMERCIAL ACTIVITY THAT CAN BE OBTAINED IN WHOLE OR IN PART FROM
16 A PRIVATE ENTERPRISE.

17 2. AN INHERENTLY GOVERNMENTAL ACTIVITY.

18 B. THE COUNCIL SHALL UPDATE THE INVENTORY CREATED UNDER THIS SECTION
19 AT LEAST EVERY TWO YEARS.

20 C. THE COUNCIL SHALL MAKE THE INVENTORY AVAILABLE TO THE PUBLIC
21 THROUGH ELECTRONIC MEANS.

22 D. STATE AGENCIES SHALL COOPERATE WITH INVENTORY REQUESTS MADE BY THE
23 COUNCIL.

24 41-2784. Business cases to outsource; review and analysis;
25 requirements

26 A. A PROPOSAL TO OUTSOURCE HAVING A PROJECTED COST OF MORE THAN TEN
27 MILLION DOLLARS IN ANY FISCAL YEAR SHALL REQUIRE:

28 1. AN INITIAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
29 SUBMITTED TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE
30 SPEAKER OF THE HOUSE OF REPRESENTATIVES AT LEAST SIXTY DAYS BEFORE A
31 SOLICITATION IS ISSUED. THE COUNCIL SHALL EVALUATE THE BUSINESS CASE
32 ANALYSIS AND SUBMIT AN ADVISORY REPORT TO THE STATE AGENCY, THE GOVERNOR, THE
33 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES WHEN
34 THE ADVISORY REPORT IS COMPLETED, BUT AT LEAST THIRTY DAYS BEFORE THE AGENCY
35 ISSUES THE SOLICITATION.

36 2. A FINAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
37 SUBMITTED AFTER THE CONCLUSION OF ANY NEGOTIATIONS, AT LEAST THIRTY DAYS
38 BEFORE EXECUTION OF A CONTRACT, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT
39 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

40 B. A PROPOSAL TO OUTSOURCE HAVING A PROJECTED COST OF AT LEAST ONE
41 MILLION DOLLARS BUT NOT MORE THAN TEN MILLION DOLLARS IN ANY FISCAL YEAR
42 SHALL REQUIRE:

43 1. AN INITIAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
44 SUBMISSION OF THE BUSINESS CASE, AT LEAST THIRTY DAYS BEFORE ISSUING A
45 SOLICITATION, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND
46 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

1 2. A FINAL BUSINESS CASE ANALYSIS CONDUCTED BY THE STATE AGENCY AND
2 SUBMITTED AFTER THE CONCLUSION OF ANY NEGOTIATIONS, AT LEAST THIRTY DAYS
3 BEFORE EXECUTION OF A CONTRACT, TO THE COUNCIL, THE GOVERNOR, THE PRESIDENT
4 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

5 C. A BUSINESS CASE TO OUTSOURCE HAVING A PROJECTED COST OF LESS THAN
6 ONE MILLION DOLLARS IN ANY FISCAL YEAR SHALL REQUIRE A FINAL BUSINESS CASE
7 ANALYSIS CONDUCTED BY THE STATE AGENCY AFTER THE CONCLUSION OF ANY
8 NEGOTIATIONS AND PROVIDED TO THE COUNCIL AT LEAST THIRTY DAYS BEFORE
9 EXECUTION OF A CONTRACT. THE COUNCIL SHALL PROVIDE THE BUSINESS CASES IN ITS
10 ANNUAL REPORT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
11 REPRESENTATIVES.

12 D. FOR ANY PROPOSED OUTSOURCING, THE STATE AGENCY SHALL DEVELOP A
13 BUSINESS CASE THAT JUSTIFIES THE PROPOSAL TO OUTSOURCE. THE BUSINESS CASE IS
14 NOT SUBJECT TO CHALLENGE OR PROTEST. THE BUSINESS CASE MUST INCLUDE:

15 1. A DETAILED DESCRIPTION OF THE SERVICE OR ACTIVITY FOR WHICH THE
16 OUTSOURCING IS PROPOSED.

17 2. A DESCRIPTION AND ANALYSIS OF THE STATE AGENCY'S CURRENT
18 PERFORMANCE BASED ON EXISTING PERFORMANCE MEASURES IF THE STATE AGENCY IS
19 CURRENTLY PERFORMING THE SERVICE OR ACTIVITY.

20 3. THE GOALS DESIRED TO BE ACHIEVED THROUGH THE PROPOSED OUTSOURCING
21 AND THE RATIONALE FOR THE GOALS.

22 4. A CITATION TO THE EXISTING OR PROPOSED LEGAL AUTHORITY FOR
23 OUTSOURCING THE SERVICE OR ACTIVITY.

24 5. A DESCRIPTION OF AVAILABLE OPTIONS FOR ACHIEVING THE GOALS. IF
25 STATE EMPLOYEES ARE CURRENTLY PERFORMING THE SERVICE OR ACTIVITY, AT LEAST
26 ONE OPTION INVOLVING MAINTAINING STATE PROVISION OF THE SERVICE OR ACTIVITY
27 SHALL BE INCLUDED.

28 6. AN ANALYSIS OF THE ADVANTAGES AND DISADVANTAGES OF EACH OPTION,
29 INCLUDING, AT A MINIMUM, POTENTIAL PERFORMANCE IMPROVEMENTS AND RISKS.

30 7. A DESCRIPTION OF THE CURRENT MARKET FOR THE CONTRACTUAL SERVICES
31 THAT ARE UNDER CONSIDERATION FOR OUTSOURCING.

32 8. A COST BENEFIT ANALYSIS DOCUMENTING THE DIRECT AND INDIRECT
33 SPECIFIC BASELINE COSTS, SAVINGS AND QUALITATIVE AND QUANTITATIVE BENEFITS
34 INVOLVED IN OR RESULTING FROM THE IMPLEMENTATION OF THE RECOMMENDED OPTION OR
35 OPTIONS. THE ANALYSIS MUST SPECIFY THE SCHEDULE THAT, AT A MINIMUM, MUST BE
36 ADHERED TO IN ORDER TO ACHIEVE THE ESTIMATED SAVINGS. ALL ELEMENTS OF COST
37 MUST BE CLEARLY IDENTIFIED IN THE COST BENEFIT ANALYSIS, DESCRIBED IN THE
38 BUSINESS CASE AND SUPPORTED BY APPLICABLE RECORDS AND REPORTS. THE STATE
39 AGENCY HEAD SHALL ATTEST THAT BASED ON THE DATA AND INFORMATION UNDERLYING
40 THE BUSINESS CASE AND TO THE BEST OF THE STATE AGENCY HEAD'S KNOWLEDGE ALL
41 PROJECTED COSTS, SAVINGS AND BENEFITS ARE VALID AND ACHIEVABLE. FOR THE
42 PURPOSES OF THIS PARAGRAPH:

43 (a) "COST" MEANS THE REASONABLE, RELEVANT AND VERIFIABLE COST, WHICH
44 MAY INCLUDE ELEMENTS SUCH AS PERSONNEL, MATERIALS AND SUPPLIES, SERVICES,
45 EQUIPMENT, CAPITAL DEPRECIATION, RENT, MAINTENANCE AND REPAIRS, UTILITIES,

1 INSURANCE, PERSONNEL TRAVEL, OVERHEAD AND INTERIM AND FINAL PAYMENTS. THE
2 APPROPRIATE ELEMENTS SHALL DEPEND ON THE NATURE OF THE SPECIFIC INITIATIVE.

3 (b) "SAVINGS" MEANS THE DIFFERENCE BETWEEN THE DIRECT AND INDIRECT
4 ACTUAL ANNUAL BASELINE COSTS COMPARED TO THE PROJECTED ANNUAL COST FOR THE
5 CONTRACTED FUNCTIONS OR RESPONSIBILITIES IN ANY SUCCEEDING STATE FISCAL YEAR
6 DURING THE TERM OF THE CONTRACT.

7 9. A DESCRIPTION OF DIFFERENCES AMONG CURRENT STATE AGENCY POLICIES
8 AND PROCESSES AND, AS APPROPRIATE, A DISCUSSION OF OPTIONS FOR OR A PLAN TO
9 STANDARDIZE, CONSOLIDATE OR REVISE CURRENT POLICIES AND PROCESSES, IF ANY, TO
10 REDUCE THE CUSTOMIZATION OF ANY PROPOSED SOLUTION THAT WOULD OTHERWISE BE
11 REQUIRED.

12 10. A DESCRIPTION OF THE SPECIFIC PERFORMANCE STANDARDS THAT MUST, AT A
13 MINIMUM, BE MET TO ENSURE ADEQUATE PERFORMANCE.

14 11. THE PROJECTED TIME FRAME FOR KEY EVENTS FROM THE BEGINNING OF THE
15 PROCUREMENT PROCESS THROUGH THE EXPIRATION OF A CONTRACT.

16 12. A PLAN TO ENSURE COMPLIANCE WITH THE PUBLIC RECORDS LAW.

17 13. A SPECIFIC AND FEASIBLE CONTINGENCY PLAN ADDRESSING CONTRACTOR
18 NONPERFORMANCE AND A DESCRIPTION OF THE TASKS INVOLVED IN AND COSTS REQUIRED
19 FOR ITS IMPLEMENTATION.

20 14. A STATE AGENCY'S TRANSITION PLAN FOR ADDRESSING CHANGES IN THE
21 NUMBER OF AGENCY PERSONNEL, AFFECTED BUSINESS PROCESSES, EMPLOYEE TRANSITION
22 ISSUES AND COMMUNICATION WITH AFFECTED STAKEHOLDERS, SUCH AS AGENCY CLIENTS
23 AND THE PUBLIC. THE TRANSITION PLAN MUST CONTAIN A REEMPLOYMENT AND
24 RETRAINING ASSISTANCE PLAN FOR EMPLOYEES WHO ARE NOT RETAINED BY THE STATE
25 AGENCY OR EMPLOYED BY THE CONTRACTOR.

26 15. A PLAN FOR ENSURING ACCESS BY PERSONS WITH DISABILITIES IN
27 COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW.

28 16. A DESCRIPTION OF LEGISLATIVE AND BUDGETARY ACTIONS NECESSARY TO
29 ACCOMPLISH THE PROPOSED OUTSOURCING.

30 E. EACH CONTRACT FOR A PROPOSED OUTSOURCING PURSUANT TO THIS SECTION
31 SHALL INCLUDE THE FOLLOWING:

32 1. A SCOPE-OF-WORK PROVISION THAT CLEARLY SPECIFIES EACH SERVICE OR
33 DELIVERABLE TO BE PROVIDED, INCLUDING A DESCRIPTION OF EACH DELIVERABLE OR
34 ACTIVITY THAT IS QUANTIFIABLE, MEASURABLE AND VERIFIABLE. THIS PROVISION
35 MUST INCLUDE A CLAUSE STATING THAT IF A PARTICULAR SERVICE OR DELIVERABLE IS
36 INADVERTENTLY OMITTED OR NOT CLEARLY SPECIFIED BUT DETERMINED TO BE
37 OPERATIONALLY NECESSARY AND VERIFIED TO HAVE BEEN PERFORMED BY THE AGENCY
38 WITHIN THE TWELVE MONTHS BEFORE THE EXECUTION OF THE CONTRACT, THE SERVICE OR
39 DELIVERABLE WILL BE PROVIDED BY THE CONTRACTOR THROUGH THE IDENTIFIED
40 CONTRACT AMENDMENT PROCESS.

41 2. A SERVICE LEVEL AGREEMENT PROVISION DESCRIBING ALL SERVICES TO BE
42 PROVIDED UNDER THE TERMS OF THE AGREEMENT, THE STATE AGENCY'S SERVICE
43 REQUIREMENTS AND PERFORMANCE OBJECTIVES, SPECIFIC RESPONSIBILITIES OF THE
44 STATE AGENCY AND THE CONTRACTOR AND THE PROCESS FOR AMENDING ANY PORTION OF
45 THE SERVICE LEVEL AGREEMENT. EACH SERVICE LEVEL AGREEMENT MUST CONTAIN AN
46 EXCLUSIVITY CLAUSE THAT ALLOWS THE STATE AGENCY TO RETAIN THE RIGHT TO

1 PERFORM THE SERVICE OR ACTIVITY, DIRECTLY OR WITH ANOTHER CONTRACTOR, IF
2 SERVICE LEVELS ARE NOT BEING ACHIEVED.

3 3. A PROVISION THAT IDENTIFIES ALL ASSOCIATED COSTS, SPECIFIC PAYMENT
4 TERMS AND PAYMENT SCHEDULES, INCLUDING PROVISIONS GOVERNING INCENTIVES AND
5 FINANCIAL DISINCENTIVES AND CRITERIA GOVERNING PAYMENT.

6 4. A PROVISION THAT IDENTIFIES A CLEAR AND SPECIFIC TRANSITION PLAN
7 THAT WILL BE IMPLEMENTED IN ORDER TO COMPLETE ALL REQUIRED ACTIVITIES NEEDED
8 TO TRANSFER THE SERVICE OR ACTIVITY FROM THE STATE AGENCY TO THE CONTRACTOR
9 AND OPERATE THE SERVICE OR ACTIVITY SUCCESSFULLY.

10 5. A PERFORMANCE STANDARDS PROVISION THAT IDENTIFIES ALL REQUIRED
11 PERFORMANCE STANDARDS, WHICH MUST INCLUDE AT A MINIMUM:

12 (a) DETAILED AND MEASURABLE ACCEPTANCE CRITERIA FOR EACH DELIVERABLE
13 AND SERVICE TO BE PROVIDED TO THE STATE AGENCY UNDER THE TERMS OF THE
14 CONTRACT THAT DOCUMENT THE REQUIRED PERFORMANCE LEVEL.

15 (b) A METHOD FOR MONITORING AND REPORTING PROGRESS IN ACHIEVING
16 SPECIFIED PERFORMANCE STANDARDS AND LEVELS.

17 (c) THE SANCTIONS OR DISINCENTIVES THAT WILL BE IMPOSED FOR
18 NONPERFORMANCE BY THE CONTRACTOR OR STATE AGENCY.

19 6. A PROVISION THAT REQUIRES THE CONTRACTOR AND ITS SUBCONTRACTORS TO
20 MAINTAIN ADEQUATE ACCOUNTING RECORDS THAT COMPLY WITH ALL APPLICABLE FEDERAL
21 AND STATE LAWS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

22 7. A PROVISION THAT AUTHORIZES THE STATE AGENCY TO HAVE ACCESS TO AND
23 AUDIT ALL RECORDS RELATED TO THE CONTRACT AND SUBCONTRACTS, OR ANY
24 RESPONSIBILITIES OR FUNCTIONS UNDER THE CONTRACT AND SUBCONTRACTS, FOR
25 PURPOSES OF LEGISLATIVE OVERSIGHT AND A REQUIREMENT FOR AUDITS BY A SERVICE
26 ORGANIZATION PURSUANT TO PROFESSIONAL AUDITING STANDARDS, IF APPROPRIATE.

27 8. A PROVISION THAT REQUIRES THE CONTRACTOR TO INTERVIEW AND CONSIDER
28 FOR EMPLOYMENT WITH THE CONTRACTOR EACH DISPLACED STATE EMPLOYEE WHO IS
29 INTERESTED IN SUCH EMPLOYMENT.

30 9. A CONTINGENCY PLAN PROVISION THAT DESCRIBES THE MECHANISM FOR
31 CONTINUING THE OPERATION OF THE SERVICE OR ACTIVITY, INCLUDING TRANSFERRING
32 THE SERVICE OR ACTIVITY BACK TO THE STATE AGENCY OR SUCCESSOR CONTRACTOR, IF
33 THE CONTRACTOR FAILS TO PERFORM AND COMPLY WITH THE PERFORMANCE STANDARDS AND
34 LEVELS OF THE CONTRACT AND THE CONTRACT IS TERMINATED.

35 10. A PROVISION THAT REQUIRES THE CONTRACTOR AND ITS SUBCONTRACTORS TO
36 COMPLY WITH PUBLIC RECORDS LAWS SPECIFICALLY TO:

37 (a) KEEP AND MAINTAIN THE PUBLIC RECORDS THAT ORDINARILY AND
38 NECESSARILY WOULD BE REQUIRED BY THE STATE AGENCY IN ORDER TO PERFORM THE
39 SERVICE OR ACTIVITY.

40 (b) PROVIDE THE PUBLIC WITH ACCESS TO THE PUBLIC RECORDS ON THE SAME
41 TERMS AND CONDITIONS THAT THE STATE AGENCY WOULD PROVIDE THE RECORDS.

42 (c) ENSURE THAT RECORDS THAT ARE EXEMPT OR RECORDS THAT ARE
43 CONFIDENTIAL AND EXEMPT ARE NOT DISCLOSED EXCEPT AS AUTHORIZED BY LAW.

44 (d) MEET ALL REQUIREMENTS FOR RETAINING RECORDS AND TRANSFER TO THE
45 STATE AGENCY, AT NO COST, ALL PUBLIC RECORDS IN POSSESSION OF THE CONTRACTOR
46 ON TERMINATION OF THE CONTRACT AND DESTROY ANY DUPLICATE PUBLIC RECORDS THAT

1 ARE EXEMPT OR CONFIDENTIAL. ALL RECORDS STORED ELECTRONICALLY MUST BE
2 PROVIDED TO THE STATE AGENCY IN A FORMAT THAT IS COMPATIBLE WITH THE
3 INFORMATION TECHNOLOGY SYSTEMS OF THE STATE AGENCY.

4 11. A PROVISION THAT ADDRESSES OWNERSHIP OF INTELLECTUAL PROPERTY. THIS
5 PARAGRAPH DOES NOT PROVIDE THE SPECIFIC AUTHORITY NEEDED BY A STATE AGENCY TO
6 OBTAIN A COPYRIGHT OR TRADEMARK.

7 12. IF APPLICABLE, A PROVISION THAT ALLOWS THE STATE AGENCY TO PURCHASE
8 FROM THE CONTRACTOR, AT ITS DEPRECIATED VALUE, ASSETS USED BY THE CONTRACTOR
9 IN THE PERFORMANCE OF THE CONTRACT. IF ASSETS HAVE NOT DEPRECIATED, THE STATE
10 AGENCY SHALL RETAIN THE RIGHT TO NEGOTIATE TO PURCHASE AT AN AGREED ON COST.

11 41-2785. Council accounting method

12 THE COUNCIL, BY RULE, SHALL ESTABLISH AN ACCOUNTING METHOD THAT:

13 1. IS SIMILAR TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES USED BY A
14 PRIVATE ENTERPRISE.

15 2. ALLOWS AN AGENCY TO IDENTIFY THE TOTAL ACTUAL COST OF ENGAGING IN A
16 COMMERCIAL ACTIVITY IN A MANNER SIMILAR TO HOW A PRIVATE ENTERPRISE
17 IDENTIFIES THE TOTAL ACTUAL COST TO THE PRIVATE ENTERPRISE, INCLUDING THE
18 FOLLOWING:

19 (a) LABOR EXPENSES, SUCH AS COMPENSATION AND BENEFITS, COSTS OF
20 TRAINING, COSTS OF PAYING OVERTIME, COSTS OF SUPERVISING LABOR OR OTHER
21 PERSONNEL EXPENSES.

22 (b) OPERATING COSTS, SUCH AS VEHICLE MAINTENANCE AND REPAIR,
23 MARKETING, ADVERTISING OR OTHER SALES EXPENSES, OFFICE EXPENSES, COSTS OF AN
24 ACCOUNTING OPERATION SUCH AS BILLING, INSURANCE EXPENSES, REAL ESTATE OR
25 EQUIPMENT COSTS, DEBT SERVICE COSTS OR A PROPORTIONATE AMOUNT OF OTHER
26 OVERHEAD OR CAPITAL EXPENSES, SUCH AS VEHICLE DEPRECIATION AND DEPRECIATION
27 OF OTHER FIXED ASSETS.

28 (c) CONTRACT MANAGEMENT COSTS.

29 (d) OTHER COSTS PARTICULAR TO A PERSON SUPPLYING THE GOOD OR SERVICE.

30 3. PROVIDES A PROCESS TO ESTIMATE THE TAXES A STATE AGENCY WOULD PAY
31 RELATED TO ENGAGING IN A COMMERCIAL ACTIVITY IF THE STATE AGENCY WERE
32 REQUIRED TO PAY FEDERAL, STATE AND LOCAL TAXES TO THE SAME EXTENT AS A
33 PRIVATE ENTERPRISE ENGAGING IN THE COMMERCIAL ACTIVITY.

34 41-2786. Governor; required review of commercial activities

35 BEGINNING WITH FISCAL YEAR 2009-2010, THE GOVERNOR, AT LEAST ONCE EVERY
36 TWO FISCAL YEARS, SHALL SELECT AT LEAST THREE COMMERCIAL ACTIVITIES THAT ARE
37 BEING PERFORMED BY A STATE AGENCY TO BE EXAMINED BY THE GOVERNOR'S OFFICE OF
38 STRATEGIC PLANNING AND BUDGETING.

39 41-2787. Duties of the governor's office of strategic planning
40 and budgeting

41 A. THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING SHALL:

42 1. DETERMINE THE AMOUNT OF AN APPROPRIATION THAT IS NO LONGER NEEDED
43 BY AN EXECUTIVE BRANCH AGENCY BECAUSE ALL OR A PORTION OF THE AGENCY'S
44 PROVISION OF A GOOD OR SERVICE IS PRIVATIZED.

45 2. ADJUST THE GOVERNOR'S BUDGET RECOMMENDATIONS TO REFLECT THE AMOUNT
46 THAT IS DETERMINED UNDER PARAGRAPH 1.

3. REPORT ITS FINDINGS TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

B. THIS SECTION DOES NOT PREVENT THE GOVERNOR MAKING A BUDGET RECOMMENDATION REGARDING THE RESTORATION OF A PORTION OF THE APPROPRIATION TO A STATE AGENCY THAT IS REDUCED UNDER THIS SECTION.

41-2788. Applicability

THIS ARTICLE DOES NOT APPLY TO CONTRACTS IN SUPPORT OF THE PLANNING, DEVELOPMENT, IMPLEMENTATION, OPERATION OR MAINTENANCE OF THE ROAD, BRIDGE AND PUBLIC TRANSPORTATION CONSTRUCTION PROGRAM OF THE DEPARTMENT OF TRANSPORTATION PURSUANT TO TITLE 28.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3019.01, to read:

41-3019.01. Council on efficient government; termination
July 1, 2019

A. THE COUNCIL ON EFFICIENT GOVERNMENT TERMINATES ON JULY 1, 2019.

B. TITLE 41, CHAPTER 25, ARTICLE 3 IS REPEALED ON JANUARY 1, 2020.

Sec. 3. Initial terms of members of the council on efficient government

Notwithstanding section 41-2781, Arizona Revised Statutes, as added by this act, the initial members of the council on efficient government who are engaged in private enterprise shall assign themselves by lot to terms of one or two years in office. The appointing authority shall make all subsequent appointments as prescribed by statute.

Sec. 4. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the purposes of the council on efficient government are to:

1. Ensure that each state agency focuses on its core mission and delivers goods and services effectively and efficiently by leveraging resources and contracting with private sector vendors if these vendors can more effectively and efficiently provide these goods or services and reduce the cost of government.

2. Evaluate for feasibility, cost effectiveness and efficiency business cases to be outsourced before a state agency proceeds with any outsourcing of goods or services.